

Message Text

UNCLASSIFIED

PAGE 01 MONTER 00231 042122Z

17

ACTION VOE-00

INFO OCT-01 ARA-10 ISO-00 CIAE-00 FBIE-00 INSE-00 NSAE-00

LAB-04 /015 W

----- 130332

R 041900Z MAR 76

FM AMCONSUL MONTERREY

TO SECSTATE WASHDC 2380

UNCLAS MONTERREY 0231

E.O. 11652: N/A

TAGS: CVIS, MX

SUBJ: VISAS: ADVISORY OPINIONS: COMMUTER STATUS

1. A QUESTION HAS BEEN RAISED CONCERNING THE REGISTRATION OF PERSONS ON THE BASIS OF I-550'S FILED BY COMMUTERS. WE ARE INFORMED THAT INS SAN ANTONIO DOES NOT BELIEVE SUCH I-550'S SHOULD BE FORWARDED TO A VISA ISSUING POST. SEVERAL IMMIGRATION ATTORNEYS ARE DISPUTING THIS.

2. NORMALLY NO ONE IS REGISTERED FOR AN IV UNTIL HE EITHER HAS A VALID LABOR CERTIFICATION OR IS SHOWN TO BE EXEMPT FROM THE LABOR CERTIFICATION PROVISIONS OF THE LAW. SINCE NO SUCH EXEMPTION CAN BE DERIVED FROM A COMMUTER, CONSISTENCY DICTATES THAT AN I-550 FILED BY A COMMUTER CANNOT BE USED TO REGISTER AN APPLICANT FOR AN IV, UNTIL THE COMMUTER RESUMES RESIDENCE IN THE U.S.

3. A QUESTION OF PRIORITY DATES ALSO RISES. FOR INSTANCE, WHAT PRIORITY DATE WOULD APPLY FOR THE PARENT OF A COMMUTER? WOULD IT BE THE FILING DATE OF THE I-550 OR THE DATE THAT IT COULD BE SHOWN THAT THE COMMUTER HAD RETURNED TO THE UNITED STATES TO RESIDE? WE BELIEVE THE LATTER SHOULD APPLY AS THE ASSIGNMENT OF A REGISTRATION DATE CONFERS A BENEFIT ON THE APPLICANT. ON THE OTHER HAND, WE BELIEVE THAT ANY REGISTRATION EFFECTED ON THE BASIS OF A COMMUTER-FILED I-550 BEFORE THE DATE THAT 8CFR 211.6(C) TOOK EFFECT SHOULD BE CONSIDERED VALID.

4. DEPARTMENT'S COMMENTS ON THE ABOVE ARE SOLICITED.

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LAMBERT

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Message Attributes

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Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
Disposition History: n/a
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Margaret P. Grafeld
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